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REPORT OF THE SECRETARY-GENERAL PURSUANT TO SECURITY COUNCIL RESOLUTION 1025 (1995)

I. INTRODUCTION

1. In paragraph 2 of its resolution 1025 (1995) of 30 November 1995, the Security Council requested the Secretary-General to submit for consideration by the Council at the earliest possible date and no later than 14 December 1995 a report on all aspects of the establishment by the Council of an operation consisting of a transitional administration and a transitional peace-keeping force to implement the relevant provisions of the basic agreement on the region of Eastern Slavonia, Baranja and Western Sirmium, which was signed on 12 November 1995 and communicated to the Council in document A/50/757-S/1995/951, including on the possibilities for assistance from the host country in offsetting the costs of the operation.

II. CONSIDERATIONS

2. As I noted in my report of 23 November 1995 (S/1995/987), the signing of the basic agreement was a landmark accomplishment, which provides not only for the peaceful reintegration into Croatia of the region known as Sector East but also opens the way for the return to their homes of all displaced persons from the region who so wish. It has removed an impediment to the prospects for mutual recognition between Croatia and the Federal Republic of Yugoslavia (Serbia and Montenegro). In the context of the general framework agreement for peace in Bosnia and Herzegovina, which was initialled on 21 November 1995 at Dayton, Ohio (A/50/790-S/1995/999), it fosters peaceful transition and decreased tensions in an area where renewed fighting would have potentially grave consequences for the prospects for peace in Bosnia and Herzegovina. For these reasons, it merits full international support for its effective and timely implementation.

3. The basic agreement states and implies military tasks for an international force whose implementation will require substantial military assets. The demilitarization of the region in accordance with the schedule provided for in the agreement will require a military presence with the full range of combat

capability, both to encourage confidence and to deter external military intervention. None the less, the full and wholehearted cooperation of the parties will remain an indispensable prerequisite.

4. After four years of hostilities and prolonged tension, deep-rooted mistrust prevails and each party perceives the other to have broken agreements and committed acts of aggression. There is, in this Serb-controlled area, both an element of lawlessness and a fear of Croatian military and police action. The Croatian Government has, in the recent past, repeatedly stated its preparedness to embark on military action to achieve the reintegration of the territory. Against this background, and given the failure of earlier attempts to demilitarize the sector under a United Nations peace-keeping operation, deployment of an insufficient force would be likely to undermine implementation of the basic agreement and to precipitate the very chain of events the operation is intended to prevent. Only a substantial military force deployed at the outset could generate the mutual confidence necessary for the parties to take the difficult steps required of them under the basic agreement.

5. The basic agreement also requests the Security Council to establish a Transitional Administration to govern the region during the transitional period, which will initially be for 12 months but which may be extended to two years at the request of one of the parties. The tasks of the transitional administration, as provided for in the basic agreement, include: to ensure the possibility for the return of refugees and displaced persons to their homes of origin; to help to establish and train temporary police forces in order to build professionalism among the police and confidence among all ethnic communities; to organize elections for all local government bodies; and to maintain international monitors along the international border of the region in order to facilitate the free movement of persons across existing border crossings. Under the basic agreement, the transitional administration is also required to take the steps necessary to re-establish the normal functioning of all public services in the region without delay. In the course of performing these tasks, the highest levels of internationally recognized human rights and fundamental freedoms are to be respected in the region and complex questions relating to the right to permanent residence in the region and the right to recover property or receive compensation for it will need to be addressed. In addition, the basic agreement specifically requests interested countries and organizations to take appropriate steps to promote the accomplishment of the commitments in the basic agreement, including monitoring its human rights and civil rights provisions on a long-term basis, investigating all allegations of violations of it and overseeing the local government elections.

6. The magnitude and complexity of these tasks should not be underestimated. As has been emphasized in Security Council resolution 1023 (1995) of 22 November 1995, it should be clearly understood that the purpose of the transitional administration is to achieve the peaceful reintegration of the region into the Croatian legal and constitutional system following four years of war and hostility, which have created deep apprehension, fear and distrust between the Croatian Government and the local Serbs. Moreover, the demographic composition of the region has drastically changed since 1991. It is estimated that some 70,000 Croats and others have left the region and some 75,000 Serbs, most of them refugees from other parts of Croatia, have moved into it since

1991. Significant movements of population are therefore likely to occur during the transition period. This will present enormous problems of housing, property compensation, economic reconstruction and rehabilitation in an environment in which reconciliation and confidence building will need to be fostered at every level. A tremendous amount of patience and goodwill will be required on the part of individuals, as well as the Government and local authorities concerned, to mitigate the social turmoil that will result if each ethnic group insists simultaneously on exercising the rights and entitlements bestowed on it by the basic agreement.

III. INTERNATIONAL FORCE: CONCEPT OF OPERATIONS

7. At present, the United Nations presence in Eastern Slavonia consists of two battalions of the United Nations Confidence Restoration Operation in Croatia, which is known as UNCRO (from Belgium and the Russian Federation), totalling some 1,600 all ranks, 48 United Nations military observers, 16 civilian police, 20 United Nations civilian staff and fewer than 20 personnel of other United Nations agencies.

8. The basic agreement envisages that the international force will maintain peace and security in the region and will ensure the demilitarization of the whole area within 30 days of deployment. Having considered the complexities of the situation described above, and based on a careful analysis by my military advisers, I am convinced that a mechanized division of two brigades, with combat capability, air support and a strong mobile, armoured reserve, would be required. This would mean about 9,300 combat troops and about 2,000 logistic troops. Once fully deployed, a force of this size could actively facilitate the collection and destruction or disposal of the military weapons, ammunition and explosives of the non-international force forces within the region, the disbanding of existing military, paramilitary and police forces and the maintenance of peace and security. A gradual reduction of the international force over the whole deployment period might be possible, should the situation on the ground permit this.

9. Taking into account the military risks facing an international force, my military advisers both at United Nations Peace Forces headquarters (UNPF-HQ) and at United Nations Headquarters firmly recommend that a force of this size and structure, operating under Chapter VII of the Charter of the United Nations, would provide the minimum strength necessary to implement the basic agreement and to deter attacks from other forces in the region. A force at this level would be capable of ensuring security in the region during the transitional period and supervising demilitarization through a visible, credible presence. It would command respect in the continuing negotiation and contact with the parties. This would be the method of choice to ensure demilitarization, but the force would have sufficient combat power and robust rules of engagement to enforce compliance if required. The operation would need to be supported and sustained by a comprehensive public information programme. Lighter options, involving forces of lesser strength operating under a Chapter VI mandate, are not considered by my military advisers to be feasible ways of ensuring implementation of the agreement.

10. The force, which could include the present UNCRO troops in Sector East, could deploy in two self-sufficient task forces, north and south of the Drava River, reporting to a single static headquarters. If the force was a United Nations force, its deployment would take up to 180 days. However, it would be for the force commander to declare the point at which the force could be considered to have deployed in sufficient strength to begin its tasks. Upon his confirmation that the force was operational, demilitarization would commence, to be completed within 30 days. The force would not collect weapons in storage points, but would assist in the destruction or disposal of all weapons, ammunition and explosives, as well as overseeing the disbanding of existing military, paramilitary and police forces in accordance with the basic agreement.

11. The presence of such a force would provide security and stability to the region until the end of the military mandate. Contingent upon the effectiveness of confidence and security building measures and the cooperation of the parties, the commander could recommend a reduction of his troop strength in the post-demilitarization phase.

IV. THE TRANSITIONAL ADMINISTRATION

12. As has been emphasized in Security Council resolution 1023 (1995), the purpose of the transitional administration is to achieve a peaceful reintegration of the region into the Croatian constitutional system through the implementation of the basic agreement. By the end of the transitional period, the region should be demilitarized and secure under the sovereign control of the Government of Croatia; it should also be multi-ethnic in character, with all displaced persons enjoying the right to return freely to their homes. Free and fair local elections would have been held within this period. Provision would also have been made for interested countries and organizations to take appropriate steps to monitor and report on respect for human rights in the region on a long-term basis.

13. Under the basic agreement, the Security Council is requested to establish a transitional administration to govern the region during the transitional period. I accordingly propose that the head of the transitional administration (the "transitional administrator") should be a United Nations official who would work under the direction of the Secretary-General and report to him. If the international force is a multinational force, it would not, by definition, be subject to the authority of the transitional administrator. It would, therefore, be necessary for the Security Council to request the countries providing the international force to instruct its force commander to cooperate closely with the transitional administrator and to respond appropriately if the latter should ask the international force to come to the aid of the civil power. If, on the other hand, the international force is a United Nations force, it would be under the authority of the transitional administrator.

14. As regards the structure of the transitional administration, my Special Representative has recommended that a transitional council should be established, to be chaired by the transitional administrator, and to include one representative each of the Government of Croatia, the local Serb population, the local Croat population and other local minorities. The transitional council

would be advisory in nature; the transitional administrator alone would have executive power and he would not have to obtain the consent of either the council or the parties for his decisions.

15. The transitional administrator would establish functional implementation committees, whose composition would be determined in consultation with the parties. The administrator would make him/herself aware of the overall plans for the redevelopment and reconstruction of Croatia and would seek to ensure that initial plans for the redevelopment and reconstruction of the region were in harmony with these overall plans. Other international organizations would be invited to participate in the committees as the need arose. Each committee would be chaired by the transitional administrator or his/her representative, who could be from an international agency or organization, as appropriate. He/she would, in particular, facilitate coordination of a plan of action for the restoration of Vukovar.

16. The following implementation committees would be established. The tasks outlined for them are not exhaustive: as implementation proceeds, the requirements would evolve.

(a) Implementation committee on police. The tasks of this committee would be to establish a temporary police force; define its structure and size; develop a training programme and oversee its implementation; and monitor treatment of offenders and the prison system. An initial assessment by United Nations civilian police suggest a need for up to 600 police officers with separate groups for monitoring law enforcement institutions, border monitoring, training and monitoring the prison system. Much of the work would need to be done on a 24-hour basis and would include an element of human rights monitoring;

(b) Implementation committee on civil administration. The tasks of this committee would be: to identify how the administrative structures of the parties correspond with each other, establish cooperation and liaison and develop a process and timetable for the transition; to oversee local judicial procedures; to oversee issues relating to legal residence in the area, on the basis of the basic agreement, including the development of procedures for applications, for the confirmation of legal residence and for appeals; to oversee matters relating to provision of, payment for and ownership of public utilities; to establish procedures for monitoring of existing border crossings and free movement of persons; to oversee matters relating to the transitional budget, revenue and expenditure; and to oversee internal and external transport and communication links;

(c) Implementation committee on the restoration of public services. The tasks of this committee would be to oversee the earliest possible restoration to normal functioning of all public services and utilities (including water, sanitation, energy supply, public transport, communications, waste disposal, health and educational facilities) and to oversee the rebuilding of houses damaged or destroyed during the conflict;

(d) Implementation committee on education and culture. The tasks of this committee would be to establish procedures and regulations relating to the

education curriculum, the educational needs of ethnic minorities, culture and the use of language, and to supervise compliance with them;

(e) Implementation committee on the return of refugees and displaced persons. The Office of the United Nations High Commissioner for Refugees (UNHCR), as the lead agency for such return, would be a member of this committee. Its tasks would be to coordinate and control the voluntary return of refugees and displaced persons and to coordinate follow-up services to returned refugees and displaced persons. A subcommittee on property and compensation would also be needed to develop procedures for verifying ownership and schedules for the return of property to identified owners; to assist in developing procedures for assessing damage and compensation and obtaining funds for this later; and to establish mechanisms to ensure just treatment of those who will have to leave the properties they occupy and to assist in their resettlement;

(f) Implementation committee on human rights. This committee would establish the human rights monitoring mission; establish liaison with Council of Europe human rights bodies (the European Commission and the Court on Human Rights); monitor human rights and report on human rights violations; intervene with local authorities on issues of human rights policy; establish a mechanism for the redress of individual cases of human rights violations either through the structures of the transitional administration itself or through European human rights bodies; establish a human rights education programme; and provide support and training to strengthen local human rights organizations;

(g) Implementation committee on elections. This committee would establish a timetable and procedures for elections, including the establishment of criteria for eligibility of candidates and of voters; determine the applicability of existing electoral laws; obtain and verify all census and population records and define boundaries of municipalities, districts and counties; develop criteria for access to media and finances; organize elections; declare and certify the results of elections with the assistance of other international and local observers;

(h) Implementation committee on records. This committee would facilitate the location of records and the provision of copies of records that have been lost or destroyed; authenticate records involving legal transfer of goods, including inheritance; supervise the issuance of new licences and registrations, including driving and professional licences, school records and vehicle registration; develop procedures for the recognition of duly issued professional or similar qualifications; and certify records such as certificates of birth, death, marriage and divorce.

17. If there are any areas in which Croatian law has been modified or supplemented by legislation enacted by the local Serb authorities during the period since 1991 or by other law, it would be necessary to establish a programme and modalities for the earliest possible restoration of the law of the Republic of Croatia. The transitional administrator might also need to have legislative power to enact regulations for carrying out the functions attributed to him by the agreement; the validity of such regulations would expire at the end of the transitional period, unless the Croatian authorities decided otherwise.

V. RESIDUAL MANDATES OF THE UNITED NATIONS CONFIDENCE RESTORATION OPERATION IN CROATIA, KNOWN AS UNCRO

18. In its resolution 1025 (1995), the Security Council decided to terminate the mandate of UNCRO by 15 January 1996. As a result, the mandate of UNCRO as outlined in my report of 29 September 1995 (S/1995/835), including its confidence-building and humanitarian tasks, such as assistance to refugees and displaced persons and monitoring of the treatment of ethnic minorities, will lapse as of that date, and the United Nations military observers and civilian police monitors performing these functions will be withdrawn.

19. However, and on the basis of consultations with the parties in the area, I recommend that the monitoring of the demilitarization of the Prevlaka peninsula in accordance with Security Council 779 (1992) of 6 October 1992 continue. Depending on the Council's decisions on the arrangements for the implementation of the basic agreement and of the framework agreement for peace in Bosnia and Herzegovina, I will determine whether this United Nations military observer operation should be directed from Croatia or from Bosnia and Herzegovina. In the interim, the United Nations military observers will continue to report to UNPF-HQ at Zagreb until such time as I have been able to recommend definitive changes in the structure of the United Nations presence in the former Yugoslavia, as indicated in paragraph 39 of my report of 23 November 1995 (S/1995/987).

20. Given the dimensions of the "Blue Zone" in Prevlaka and the "Yellow Zone", which encompasses a demilitarized zone of 5 kilometres on either side of the tripartite border, and the need to establish a small local headquarters because of the isolation of the area, I recommend that the authorized strength of this United Nations military observer operation be increased from 14 to 28. This would permit it to be self-sufficient, to patrol more reliably the areas concerned, and to maintain UNCRO's present liaison teams in Dubrovnik and Herzeg Novi.

21. As mentioned in paragraph 26 of my report in document S/1995/987, the United Nations peace-keeping force has, throughout its mission, maintained a presence in the Federal Republic of Yugoslavia (Serbia and Montenegro) in order to conduct political liaison and public information functions, along with the tasks relevant to monitoring of the Prevlaka peninsula and of airfields, as mandated by the Security Council in paragraph 5 of its resolution 786 (1992). Although the airfield mandate is expected to lapse in the context of the arrangements for the implementation of the framework agreement for peace in Bosnia and Herzegovina, continuation of the political liaison and public information functions is essential for the implementation of the mandates that the Security Council is likely to authorize in the near future. In this regard, I will revert to the administrative arrangements in a further report which will also address the issue of the continuation of UNPF-HQ.

VI. OBSERVATIONS

22. The operation discussed in the present report is a complex and difficult one. Though the conclusion of the framework agreement for peace in neighbouring Bosnia and Herzegovina and the establishment there of a 60,000-strong implementation force will, it is hoped, contribute to a vastly improved climate in the region as a whole, the past record of the parties to the basic agreement in honouring their undertakings to each other and to the international community is not encouraging. The imprecise nature of the agreement, and the risk of differing interpretations of some of its provisions, also make it unwise to assume that compliance will be readily forthcoming. The force deployed must therefore have a mandate under Chapter VII of the Charter, must have the capacity to take the necessary action to maintain peace and security, must be sufficiently credible to deter attack from any side and must be capable of defending itself. Anything less than a well-armed division-sized force would only risk repeating the failures of the recent past. It is important to remember that a robust military presence would be required not only for demilitarization but also to reassure the inhabitants of the region that, after demilitarization, they will not be exposed to military attack. The concept of deterrence by mere presence, as attempted in the "safe areas" in Bosnia and Herzegovina, would be no likelier to succeed on this occasion. Should there be a mismatch between the international force's mandate and its resources, there would be a risk of failure, of international casualties and of undermined credibility for those who had put the force in the field. A Chapter VII mandate would also be necessary to give the transitional administrator the power to "govern", as stipulated in the agreement.

23. For reasons I have previously conveyed to the Security Council, it remains my view that the deployment and command of the force required in this case, comprising approximately 9,300 troops, plus logistic support, under a Chapter VII mandate, would best be entrusted to a coalition of Member States rather than to the United Nations. Should Member States agree to deploy a multinational force for the purpose, I would suggest that, for command and logistic purposes, it should be attached to the implementation force to be deployed in Bosnia and Herzegovina. My recommendation therefore is that the Security Council should authorize Member States to establish a multinational force to conduct this operation.

24. However, in consultations with the Secretariat, some Member States have expressed a preference for the basic agreement to be implemented by a United Nations force. If this point of view was accepted by the Council, the arguments in favour of giving the force a Chapter VII mandate and a combat capability with air support would remain no less compelling. I do not believe that a peace-keeping force as envisaged in resolution 1025 (1995) would be adequate for the task in hand. I acknowledge that the United Nations would face great difficulty in assembling and deploying such a force in the time-frame envisaged by the parties. I also continue to have reservations about the present ability of the United Nations to undertake an enforcement operation of this nature. These are the reasons for my strong preference for the multinational option, especially when it has been decided that a multinational force is necessary for implementation in Bosnia and Herzegovina where the situation is similar to that

in Eastern Slavonia except that the former's framework agreement contains far fewer imprecisions than the latter's basic agreement.

25. While effective demilitarization at the outset of the operation is undoubtedly a major key to its success, it is important that implementation of the civilian aspects should also begin as soon as possible. I accordingly recommend that the Security Council authorize the establishment of the transitional council and local implementation committees. I intend to submit shortly to the Council the nomination of a suitable official to serve as transitional administrator. I believe that the implementation of the civilian tasks foreseen in the agreement would be made considerably easier if the parties could agree on an amnesty and exemption from prosecution for certain categories of offences, excluding war crimes.

26. This operation will not succeed unless two conditions are fulfilled. The first is the active and sustained political support of the Security Council and particularly of those Member States that have played a vital part in concluding the basic agreement. I rely on their efforts to encourage the parties to comply with their obligations and to desist from taking action which could undermine the peace process. The second is the immediate provision by Member States of the necessary troops and the guarantees that the financial resources needed will be made available. In this connection, I have received no indication from the Government of Croatia that it would be willing to contribute in any significant manner to defraying the costs of the operation. However, I am grateful that the Government has undertaken to consider in what manner it could contribute to offsetting the costs of the operation and I call upon the Croatian authorities to pursue their dialogue with the international community to that end.

27. Preliminary estimates of the costs of the proposals contained in the present report will be circulated shortly as an addendum to the report.